

REMARKS

Reconsideration and allowance of the subject application are respectfully requested. Applicant thanks the Examiner for total consideration given the present application. Claims 1-2, 4-13, and 15-17 were pending prior to the Office Action. Claims 18-21 have been added through this reply. No claims have been canceled through this reply. Therefore, claims 1-2, 4-13, and 15-21 are pending. Claims 1-2, 5, 8-13, and 15-17 are independent. Applicant respectfully requests reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seeks a timely allowance of all pending claims.

Allowable Subject Matter

Applicant appreciates that claims 2, 4, 6-7, 11, and 17 are indicated to be allowable.

The Examiner indicated that the features of dependent claim 3 are allowable. (See Office Action, dated December 11, 2008.) Applicant has amended independent claims 5, 9-10, 12, and 15-16 with the features of indicated allowable dependent claim 3. Therefore, claims 5, 9-10, 12, and 15-16 are allowable.

Claim Rejection - 35 U.S.C. § 112, second paragraph

The Examiner rejected claim 17 under 35 U.S.C. § 112, second paragraph, asserting that claim 17 is allegedly indefinite. Claim 17 has been amended as required by the Examiner. Claim 17 now recites "a method of discriminating between controlled devices." Therefore, based on these amendments, it is respectfully requested that the outstanding rejection be withdrawn and claim 17 be allowed.

Claim Rejection - 35 U.S.C. § 103(a)

Claims 1, 5, 8-10, 12-13, and 15-16 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable by Salazar et al. (U.S. Patent 5,802,467). Applicant respectfully traverses this rejection.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish a *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Request for Evidence based on Examiner's Official Notice

Applicant notes that Official Notice may be taken of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. *See M.P.E.P. 2144.03*. However, if the assertion is traversed, references must be cited in support of the position taken in the Official Notice. *See Id.* The assertion of the Examiner's Official Notice is traversed as detailed below. M.P.E.P. 2144.03 states "the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." Therefore, based on this traversal, Applicant requires the Examiner to provide all evidence to all features the Examiner relies on for Official Notice.

However, "[i]f the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding." *See Id.* Therefore, the Examiner must either provide documentary evidence of all of the features, provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding, or allow the pending application.

Argument 1 of 4: Features of claims 1, 8, and 13 are not taught by prior art:

Applicant has amended independent claims 1, 8, and 13 merely to further clarify the invention in order to move prosecution forward. Independent claims 1, 8, and 13 as amended recite, *inter alia*:

"the control command includes one of a first command, a second command, and a third command,

the first command includes a reception quality acquisition command and a channel number acquisition command,

the second command includes a channel changing command and a name of other-station device acquisition command, and

the third command includes a reproduction command, a stop command, a fast forward command, and a rewinding command.”

The Examiner’s assertion of Office Notice is traversed for the following reasons:

While Applicant may agree with the Examiner to the extent that it is known in the art to have a single control command for a single function (*i.e.*, a control command for a fast forwarding function), Applicant believes that a control command including one of a first command, a second command, and a third command, where the first command includes a reception quality acquisition command and a channel number acquisition command, the second command includes a channel changing command and a name of other-station device acquisition command, and the third command includes a reproduction command, a stop command, a fast forward command, and a rewinding command is not known in the art.

Therefore, the claimed invention has three available options to which the claimed invention may choose to transmit the control command. The first option is to transmit the control command with a reception quality acquisition command and a channel number acquisition command. The second option is to transmit the control command with a channel changing command and a name of other-station device acquisition command. The third option is to transmit the control command with a reproduction command, a stop command, a fast forward command, and a rewinding command. Again, known prior art merely discloses a single control command for a single function.

As stated above, Examiner’s assertion of Office Notice is traversed and the Examiner is requested to provide evidence of 1) having a control command with three available options, 2) a first available option is have the control command to include a reception quality acquisition command and a channel number acquisition command, 3) a second available option is have the control command to include a channel changing command and a name of other-station device

acquisition command, and 4) a third available option is have the control command to include a reproduction command, a stop command, a fast forward command, and a rewinding command.

Prior art fails to show or suggest "the control command includes one of a first command, a second command, and a third command, the first command includes a reception quality acquisition command and a channel number acquisition command, the second command includes a channel changing command and a name of other-station device acquisition command, and the third command includes a reproduction command, a stop command, a fast forward command, and a rewinding command" as now claimed. The Examiner acknowledges that currently cited Salazar fails to disclose this feature. Therefore, unless the Examiner can provide evidence explicitly disclosing these features, claims 1, 8, and 13 are submitted to be allowable over prior art for at least this reason.

Dependent claims are allowable for the reasons set forth above with regards to independent claims at least based on their dependency on the independent claims.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 8, and 13 under 35 U.S.C. § 103(a).

Reconsideration and allowance of claims 1, 8, and 13 are respectfully requested for at least these reasons.

Argument 2 of 4: Features of claims 1, 8, and 13 are not taught by prior art:

In addition to Argument 1 above, Applicant has further amended the claimed invention of claims 1, 8, and 13, only to expedite prosecution.

More specifically, independent claim 1 as amended recites, *inter alia*, "the first command is control data transmitted to a first controlled device by the controlling device; the second command is control data transmitted to a second controlled device by the controlling device via the first controlled device; and the third command is control data transmitted to a third controlled device by the controlling device via the first controlled device and via the second controlled device."

In addition to Salazar failing to disclose a control command that includes one of a first command, a second command, and a third command, where the first command includes a

reception quality acquisition command and a channel number acquisition command, the second command includes a channel changing command and a name of other-station device acquisition command, and the third command includes a reproduction command, a stop command, a fast forward command, and a rewinding command; Salazar also fails to disclose “the first command is control data transmitted to a first controlled device by the controlling device; the second command is control data transmitted to a second controlled device by the controlling device via the first controlled device; and the third command is control data transmitted to a third controlled device by the controlling device via the first controlled device and via the second controlled device” as now claimed, and claim 1, as amended, is submitted to be allowable over Salazar for at least this reason.

Independent claims 8 and 13 are allowable for similar reasons as set forth above in reference to independent claim 1.

Dependent claims are allowable for the reasons set forth above with regards to independent claims at least based on their dependency on the independent claims.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 8, and 13 under 35 U.S.C. § 103(a).

Reconsideration and allowance of claims 1, 8, and 13 are respectfully requested for at least these reasons.

Argument 3 of 4: Features of claims 5, 9-10, 12, and 15-16 are not taught by prior art:

Independent claims 5, 9-10, 12, and 15-16 recite, *inter alia*, “the control data includes, as a control command, a command for performing a change of a data transmission rate, a change of a wireless communication channel, a change of a tuner channel, switching of an input, and acquisition of a communication state.” *Emphasis added.*

The Examiner’s assertion of Office Notice is traversed for the following reasons:

While Applicant may agree with the Examiner to the extent that it is known in the art to have a single control command for a single function (*i.e.*, a control command for a fast forwarding function), Applicant believes that a control command including a command for performing a change of a data transmission rate, a change of a wireless communication channel,

a change of a tuner channel, switching of an input, and acquisition of a communication state is not known in the art.

Therefore, the claimed invention has a control command that includes all five commands together: 1) a command for performing a change of a data transmission rate, 2) a command for performing a change of a wireless communication channel, 3) a command for performing a change of a tuner channel, 4) a command for performing switching of an input, and 5) a command for performing acquisition of a communication state. Again, known prior art merely discloses a single control command for a single function.

As stated above, Examiner's assertion of Office Notice is traversed and the Examiner is requested to provide evidence of a control command that includes all five commands together: a command for performing a change of a data transmission rate, a command for performing a change of a wireless communication channel, a command for performing a change of a tuner channel, a command for performing switching of an input, and a command for performing acquisition of a communication state.

Prior art fails to show or suggest "the control data includes, as a control command, a command for performing a change of a data transmission rate, a change of a wireless communication channel, a change of a tuner channel, switching of an input, and acquisition of a communication state" as claimed. Further, the Examiner acknowledges that currently cited Salazar fails to disclose this feature. Therefore, unless the Examiner can provide evidence explicitly disclosing these features, claims 5, 9-10, 12, and 15-16 are submitted to be allowable over prior art for at least this reason.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 5, 9-10, 12, and 15-16 under 35 U.S.C. § 103(a).

Reconsideration and allowance of claims 5, 9-10, 12, and 15-16 are respectfully requested for at least these reasons.

Argument 4 of 4: Features of claims 5, 9-10, 12, and 15-16 are not taught by prior art:

In addition to Argument 3 above, Applicant has further amended the claimed invention of claims 5, 9-10, 12, and 15-16, only to expedite prosecution.

As discussed above, the Examiner indicated that the features of dependent claim 3 are allowable. (See Office Action, dated December 11, 2008.) Applicant has amended independent claims 5, 9-10, 12, and 15-16 with the features of indicated allowable dependent claim 3. Therefore, claims 5, 9-10, 12, and 15-16 are allowable.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 5, 9-10, 12, and 15-16 under 35 U.S.C. § 103(a).

Reconsideration and allowance of claims 5, 9-10, 12, and 15-16 are respectfully requested for at least these reasons.

Conclusion

Therefore, for at least these reasons, all claims are believed to be distinguishable over the combination of Salazar and any alleged prior art, individually or in any combination. It has been shown above that the cited references, individually or in combination, may not be relied upon to show at least these features. Therefore, claims 1, 5, 8-10, 12-13, and 15-16 are distinguishable over the cited references.

In view of the above remarks and amendments, it is believed that the pending application is in condition for allowance.

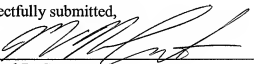
Applicant respectfully requests that the pending application be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Aslan Ettehadieh Reg. No. 62,278 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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